& see 29 U.S.C. ¶ 705(21)(a)(iii)] [4] Furthermore, "bipolar disorder" and/or "bipolar affective disorder" have been rejected by the courts as well. [# 05-28 Point I [A][i] page 10 ft. note 6 citations omitted]

The fourth is that petitioner did not seek damages from the State. It was petitioner's point that Congress did have the power to pass Title II under ¶ 5 of the Fourteenth Amendment. However, it was further argued that a citizen can enforce this statutory right without seeking monetary damages. Although piercing the treasury necessarily includes the right for injunctive relief, the inverse is not guaranteed. [see # 02-1259, Point II [A] [i] [c] pages 21 –23; also see # 05-28 at Point VI [A]& [B] pages 27-29]

As this Court made clear in *Garrett*:

> *Title I* of the ADA *still prescribes standards applicable to the States*. Those standards can be enforced by the United States in actions for money damages *as well as by private individuals* in actions for injunctive relief under *Ex Parte Young*, 209 U.S. 123 (1908). [emphasis added see *Board of Trustees* v *Garrett*, 531 U.S. 356 at 374 n. 9 (2001)] [5]

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[4] The Ninth Circuit further found the scope of qualified disability under Title II to include *bipolar disorder*[*Hason*] and "osteoarthritis and osteoporosis" [*Phiffer*]. Neither are "significant" under the Rehabilitation Act.

[5] For purposes of Title II, the "state action" necessary for Congress to pass legislation under ¶ 5 of the Fourteenth Amendment is present. [*Cf. United States* v *Morrison*, 529 U.S. 598, 621 (2000)] Therefore, the standards set forth by federal law can be enforced against State officials. This Court has always recognized a citizen's right to pursue its claim "when the suit seeks only prospective injunctive relief in order

Six separate constitutional infringements.

Title II is the law of the land and this Court has abrogated the State's Eleventh Amendment immunity. This raises *Article VI ¶ 2* and the *11th Amendment*. A third point is raised on a separate basis. The State Bar contends that the exclusion of expert testimony by the sister state is an evidentiary ruling. However, as Title II is an *Act of Congress* which was passed under ¶ 5 of the Fourteenth Amendment, no substantive or procedural rule of a State can pass judicial muster. [# 05-28 at Point IV [A] & [B] pages 21-25 at page 21 quoting *Erie R. Co.*, v *Tompkins*, 304 U.S. 64, 78 (1938)] [6]

An opportunity to be heard includes the right to introduce neurological expert testimony that was timely offered. Its denial deprives a citizen of its procedural due process. [*14th Amendment*] This leads to the permanent disbarment of petitioner from practicing in the profession that he has regained. The issuance of a license is a property interest falling under the gamut of substantive due process. [*14th Amendment*] When a citizen's license is taken away by the state, and his livelihood is at stake, procedural and substantive due process come into play on a separate basis.

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to ' end a continuing violation of federal law."'[see i.e. *Seminole Tribe* v *Florida*, 517 U.S. 44, 73-74 (1996) quoting *Green* v *Mansour*, 474 U.S. 64, at 68 (1985)] Furthermore, there is no internal remedy under Title II that suggests the reduction of this right.[Cf. *Seminole, supra*, at 73-74 re: 25 U.S.C. ¶ 2710(d)(3) & ¶ 2710(d)(7)]

[6] The State's argument is that Title II can only be enforced when access to the court takes place before entering the courthouse. It is maintained that this premise is misplaced. [# 05-28 at page 13 ft. note 8 & page 16 ft. note 10]

When this crosses state borders, this runs afoul of *Article IV* ¶ *2* of the Constitution . [# 05-28 Point V at pg. 26]

It is maintained that the watershed effect to the present matter is that the former proceeding cannot be relied upon on a prospective basis. [see petition for review to California Supreme Court filed March 2nd 2005, Point II [A] at page 18 "*failed to adhere to the law that existed in 2001*" citations omitted]

Therefore, from May 18, 2004, the State's attempt to force an expedited hearing upon petitioner is a denial of due process. [# 05-28 Point II [A] pages 17-18 citing i.e. *Logan* v *Zimmerman Brush Co.*, 455 U.S. 422, 434, (1982)] Petitioner has met its burden in establishing that the sister state proceeding "*lacked fundamental constitutional protection*". [emphasis added B & P ¶ 6049.1 (a) & (b)(3); see # 05-28 at page 4 and Point III *et al.*] [7]

Conclusion

This Court set forth that the interest in "finality" "must yield where the interests of justice" prevails. This was found to be the "policy" for both "civil and criminal cases." [*United States* v *Ohio Power*, second petition for rehearing granted at 353 U.S. 98, 99 (1957); and initial petition for rehearing denied at 350 U.S. 919 (1955); and *cert. denied* 350 U.S. 862 (1955); Also see *Gondeck* v

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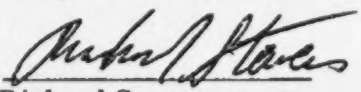
[7] Instead of recognizing the seriousness of having seizures immediately before a hearing, the State Bar ignores the medical reports of Dr. Luciano and Dr. Parker and claims that petitioner lied to the court. [see opposition brief filed by State Bar to California Supreme Court on or about January 3, 2005; see # 05-28 pages 7-9 & Point II[B] pages 19-20 and appendix thereto at *22a-39a*; also see supplemental petition filed September 22 2005, at pages 2-3 - citations omitted]

Pan American World Airways, second petition for rehearing granted 382 U.S. 25, at 26-27 (1965) quoting *Ohio Power, supra* at 99; and initial petition for rehearing denied, 371 U.S. 856 (1962); and *cert. denied,* 370 U.S. 918 (1962); also see *Remmer* v *United States*, 348 U.S. 904, (1954) petition for rehearing granted, vacating and remanding, 347 U.S. 227 (1954)]

Furthermore, the conflict between the Circuit Courts, coupled with issues raised in *Lane, Goodman, Phiffer, Hason*, and the present matter, leave several questions "unresolved". [see *Maryland For the Use of Levin* v *United States*, petition for rehearing granted at 382 U.S. 159 (1965) vacating 381 U.S. 41 (1965)]

For the reasons set forth above, as well as those in the prior petitions for *writ of certiorari* to this Court, petitioner respectfully prays that this Court grant rehearing of the order of denial issued on October 3, 2005, vacate that order, grant certiorari, and review the judgment and opinion below. This Court has the inherent power to vacate the order of denial issued April 21, 2003, and grant certiorari thereof.

Respectfully submitted,



Dated: October 17, 2005

Richard Stevens *pro se*
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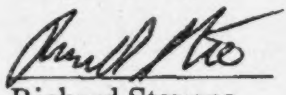
CERTIFICATE PRO SE
RULE 44 (2)

Petitioner certifies that this petition for rehearing is made in good faith and not for delay and is restricted to the grounds specified in Rule ¶ 44.2.

The requisite fee of $ 200.00 is enclosed pursuant to Court Rule 38 (b).

Respectfully,



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Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

William K. Suter
Clerk of the Court
(202) 479-3011

October 3, 2005

Mr. Richard Stevens
221 West 82nd Street
New York, NY 10024

Re: Richard Stevens
v. State Bar of California
No. 05-28

Dear Mr. Stevens:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

/s/ William K. Suter
William K. Suter, Clerk